

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 20 December 1974

Memorandum to the Consultative Committee and to the Council
of Ministers on a decision to extend, to transactions made
in the Kingdom of Norway, the effect of Article 60 and
implementing Regulations made thereunder

(submitted to the Council by the Commission)

The Commission has negotiated agreements with the Kingdom of Norway, which was unable to join the Community. These negotiations were conducted on the basis of Article 113 in respect of the EEC and on the basis of instructions from the governments of the Member States meeting in the Council in respect of the ECSC.

The essential objective of these agreements (which are like those made with Austria, Finland, Iceland, Portugal, Sweden and Switzerland) is a dismantling of tariffs in the industrial sector accompanied by safeguard clauses. As regards the ECSC, the instructions included the possibility of extending the price system provided for in Article 60 of the ECSC Treaty to transactions of Community steel industries on the one hand and those of the Kingdom of Norway on the other hand effected in the territory of the other party. The Kingdom of Norway has expressed its readiness to institute a price system of this kind.

Thus, by the agreement with the Community and its Member States signed on 14 May 1973 the Kingdom of Norway undertakes to apply in its territory and in its relations with the Community the same price regulations as those in force within the Community on the basis of Article 60 of the ECSC Treaty (these regulations are set out in Article 20 of the agreement); for their part, the Community and its Member States have undertaken to extend the application of the regulations applied on the basis of Article 60 to the transactions of steel industry undertakings governed by the ECSC Treaty carried out in the markets of the Kingdom of Norway.

It is understood that the price regulations in question include not only those contained in Article 60 but also all the decisions implementing this Article taken by the High Authority and, subsequently, by the Commission, relating in particular to the application of the non-discrimination rule, obligations as regards publicity of prices and sea-freight tariffs; conditions of alignment both on offers from Community producers and third countries.

Such an extension is not provided for in the Treaty; it does, however, comply with the provisions of Article 5 which assigns to the Community the task of ensuring the establishment, maintenance and observance of normal competitive conditions.

This extension is also designed to attain the Community's objectives in particular with regard to promoting the growth of international trade and ensuring that equitable limits are observed in export pricing (Article 3).

The absence of uniform rules concerning price and alignment in the free-trade relations aimed at by the above-mentioned agreements would involve the risk of distortions of competition; these uniform rules can make a considerable contribution to the harmonious growth of trade with the Kingdom of Norway and help avoid any recourse to safeguard measures which would be an obstacle to such trade.

It is only by means of these uniform rules, which require the extension of the regulations applied in the Community on the basis of Article 60 to transactions effected on the Norwegian market, that the Community can ensure the establishment, maintenance and observance of normal competitive conditions, not only in external free-trade relations but also in the functioning of the Common Market.

This extension accordingly constitutes a case for which the Treaty does not provide and can be the subject of a decision within the meaning of Article 95 (1).

The rules thus established must be applied in exactly the same way as those already in force in the Community.

The extensions of these regulations must be guaranteed by adequate measures, and provision should therefore be made for the application of the sanctions provided for in cases of infringement by Article 64 of the ECSC Treaty.

Furthermore, the extension of these regulations must not have the effect of preventing their amendment in accordance with the procedures laid down for this purpose in the Treaty; any amendments made to the regulations adopted pursuant to Article 60 must also be extended to the transactions carried out on the markets of the Kingdom of Norway, and vice versa.

The Community has the power, under the agreement with the Kingdom of Norway, to suspend application by Community undertakings of the extended rules to this country in the event of the safeguard measures provided for in this connection being applied.

The terms of the Commission Decision, which will be based on Article 95 (1) and (2), after consultation of the Consultative Committee and with the Council's unanimous endorsement, will be the same as the terms of the Decision (*) made in the same field but covering sales and purchases made in the territories of the Republic of Austria, the Republic of Finland, the Kingdom of Sweden and the European territory of the Republic of Portugal (*). The draft is as follows:

Article 1

The provisions of Article 60 of the Treaty establishing the European Coal and Steel Community, together with those contained in the decisions made in pursuance of this Article, shall apply to transactions by undertakings in the coal and steel industry within the meaning of Article 80 of the ECSC Treaty which are performed within the territory of the Kingdom of Norway and cover the products listed in Annex 1 of the Treaty under Nos. 4,200 to 4,500 inclusive.

Article 2

The provisions of Commission Decision No. 73/152/ECSC of 23rd May 1973 obliging undertakings in the iron and steel industry to publish additional agreements on transport in respect of links involving marine transport between ports within the Community shall apply to links involving marine transport between Community ports and ports in the Kingdom of Norway.

Article 3

The provisions of Article 64 of the ECSC Treaty shall apply to those undertakings which do not comply with the provisions of Articles 1 and 2 of this Decision.

Article 4

In the event of the safeguard clauses contained in the agreement reached between the Kingdom of Norway and the European Coal and Steel Community being applied, the Commission may suspend the application of this decision in connection with transactions performed in the territory of the Kingdom of Norway.

(*) Decision 3073/73/ECSC of the Commission, O.J.L314 of 15th November 1973

Article 5

The entry into force of this Decision shall coincide with the entry into force of the agreement between the European Coal and Steel Community and its Member States for the one part and the Kingdom of Norway for the other.

The date on which this agreement shall enter into force, will be published in the Official Journal of the European Communities.

Article 6

This Decision shall be binding in its entirety and directly applicable in all Member States.